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Attorneys for Plaintiff,  
JOSE ALBERTO GARCIA

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JOSE ALBERTO GARCIA,

*Plaintiff,*

v.

COUNTY OF STANISLAUS, a municipal  
corporation; Stanislaus County Sheriff's Deputies  
RICHARD JOHNSON, individually, JESSUE  
CORRAL, individually, and WADE CARR,  
individually; Stanislaus County Sheriff's  
Sergeants JOSHUA SANDOVAL, individually,  
and THOMAS LETRAS, individually; and,  
DOES 1-30, Jointly and Severally,

*Defendants.*

) Case No.: 1:21-cv-00331-MCE-DB  
)  
) **SEVENTH STIPULATION AND**  
) **ORDER TO CONTINUE**  
) **SCHEDULING ORDER**  
) **DEADLINES FOR EXPERT**  
) **DISCOVERY AND THE FILING**  
) **OF DISPOSITIVE MOTIONS**  
) **ONLY (ECF NOS. 24, 32, 42, 46,**  
) **48, 54, 57)**

Plaintiff, by and through his counsel, T. Kennedy Helm, IV, of Helm Law Office, PC, and  
Sanjay S. Schmidt, of the Law Office of Sanjay S. Schmidt; and Defendants, by and through their

counsel, Jill B. Nathan, of Rivera Hewitt Paul LLP, hereby respectfully stipulate and request as follows:

RECITALS

A. This is the Parties' seventh request for an extension of pretrial dates. (*See* ECF Nos. 24, 32, 42, 46, 48, 54, 57). This request concerns only the present deadlines for the close of expert discovery and the dispositive motion filing deadline. All other discovery has been completed.

B. On September 13, 2023, this action was reassigned to this Court. (*See* ECF No. 59).

C. On September 18, 2023, this Court vacated the then-existing dates for the Final Pretrial Conference and Jury Trial. (*See* ECF No. 60).

D. On September 27, 2023, pursuant to the operant scheduling order (ECF No. 57), the Parties timely exchanged expert disclosures. (*See* ECF No. 57, at 2:19).

E. Currently, the cutoff of expert discovery is November 15, 2023. (*See* ECF No. 57, at 2:21).

F. Plaintiff's retained medical experts—one of whom is an on-call orthopedic trauma surgeon—are not engaged primarily in litigation consulting work and are extremely busy with their practices. (*See* ECF No. 56-1, Schmidt Dec., ¶ 9).

G. Additionally, Plaintiff's attorneys have schedules that are extremely impacted in the months of November and December of this year, due to obligations to take and defend depositions, attend hearings, file briefs, and handle a panoply of other matters in numerous other cases that are in litigation. Plaintiff's counsel Mr. Schmidt and Mr. Helm must oppose an expected summary-judgment motion and complete both fact and expert discovery by January 4, 2024 in an in-custody death case, *Shoar v. County of Santa Clara*, No. 3:22-cv-00799-WHA (N.D. Cal.). Plaintiffs' co-counsel Mr. Helm is co-counsel in the in-custody death case of *Hernandez, et al. v. County of Riverside, et al.*, No. 5:21-cv-01791-JGB-SP (C.D. Cal.), which is scheduled to go to trial on January 23, 2024, with a summary-judgment motion to be heard on November 27, 2023 and pre-trial filings due throughout December 2023. (*See* ECF Nos. 60, 63).

1 Mr. Schmidt and Mr. Helm also have a mediation in a complicated, in-custody excessive force  
2 case on December 7, 2023, motion practice is expected in at least two other cases that were  
3 recently served (in which Mr. Schmidt is co-counsel), which will continue into December, and  
4 Mr. Schmidt has several non-expert and expert depositions set in December.

5 H. To accommodate the medical experts' schedules, and the schedules of counsel, and in  
6 view of the holidays in November and December that also limit the availability of experts and  
7 counsel, the Parties request an additional approximately 120-days for the close of expert  
8 discovery, from November 15, 2023 to March 14, 2024, to allow sufficient time to schedule  
9 Plaintiff's medical experts' depositions, as well as the depositions of Plaintiff's and  
10 Defendants' other experts, and then to review the transcripts before filing dispositive motions.

11 I. This extension of the close of expert discovery will necessitate a corresponding extension  
12 on the deadline for filing dispositive motions, currently set for December 4, 2023. (*See* ECF No.  
13 57, 2:22). To allow the Parties sufficient time to complete expert discovery and review the expert  
14 depositions, the Parties request an additional approximately five-month extension for the  
15 deadline to file dispositive motions. The Parties further agree that, pursuant to Local Rule  
16 230(b), the Defendants will notice the hearing not less than sixty-five (65) days after filing of the  
17 motion. However, the parties explicitly stipulate to modify the otherwise applicable briefing  
18 schedule under Local Rule 230(c), such that Plaintiff shall have about 30 days to file his  
19 opposition.

20 J. Counsel for the Parties have met-and-conferred, and the Parties have agreed that neither  
21 side would be prejudiced by a stipulated extension of the expert discovery cutoff date, and the  
22 successive deadline for filing dispositive motions.

23 STIPULATION

24 Given the foregoing, and the approaching deadline for the cutoff of expert discovery  
25 (November 15, 2023), the parties respectfully submit that good cause exists to continue the  
26 expert discovery cutoff and the dispositive motion filing deadline (December 4, 2023) in the  
27

operant scheduling order, ECF No. 57. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9<sup>th</sup> Cir. 1992) (“Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking the amendment. The district court may modify the pretrial schedule ‘if it cannot reasonably be met despite the diligence of the part[ies] seeking the extension.’”).

The Parties respectfully request that the Court grant the Parties’ stipulation by extending the deadlines for expert discovery identified in its Scheduling Order, ECF No. 57, as follows, and stipulate that the briefing schedule set forth in the following chart be applicable and override the otherwise applicable schedule under Local Rule 230(c):

<b>Matter</b>	<b>Current Deadline (ECF No. 57)</b>	<b>New Deadline</b>
Completion of Expert Discovery	November 15, 2023	March 14, 2024
Dispositive Motion Filing Deadline	December 4, 2023	May 2, 2024
Deadline to File Opposition to Motion for Summary Judgment	N/A	30-days after filing of dispositive motion, or by June 3, 2024
Deadline to File Reply to Opposition to Motion for Summary Judgment	N/A	10-days after filing of Opposition, or by June 10, 2024

**IT IS SO STIPULATED.**

Respectfully submitted,

Dated: October 25, 2023

**LAW OFFICE OF SANJAY S. SCHMIDT  
HELM LAW OFFICE, PC**

/s/ T. Kennedy Helm, IV

SANJAY S. SCHMIDT

T. KENNEDY HELM, IV

Attorneys for Plaintiff

Dated: October 25, 2023

**RIVERA HEWITT PAUL LLP**

/s/ Jill B. Nathan\*

JILL B. NATHAN

Attorneys for Defendants

\*Pursuant to Local Rule 131(e), counsel has authorized submission of this document on counsel's behalf.

**ORDER**

The Court, having considered the Parties' stipulation, and good cause appearing, rules as follows:

The Court finds the Parties have shown good cause for the relief their Stipulation requests. THEREFORE, the relief that the Parties request is GRANTED, and the operative Scheduling Order (ECF Nos. 24, 32, 46, 48 54, 57) is modified as follows:

Matter	Current Deadline (ECF No. 57)	New Deadline
Completion of Expert Discovery	November 15, 2023	March 14, 2024
Dispositive Motion Filing Deadline	December 4, 2023	May 2, 2024
Deadline to File Opposition to Motion for Summary Judgment	N/A	30-days after filing of dispositive motion, or by June 3, 2024
Deadline to File Reply to Opposition to Motion for Summary Judgment	N/A	10-days after filing of Opposition, or by June 10, 2024

IT IS SO ORDERED.

Dated: October 27, 2023

  
MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE